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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

GORDON S. YEO and
SUSAN J. YEO,

Chapter 7
Case No.: 109-45771-663

Debtors.

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RICHARD J. MCCORD, ESQ., AS CHAPTER 7 TRUSTEE
FOR THE ESTATE OF GORDEON S. YEO and
SUSAN J. YEO,

Plaintiff,

COMPLAINT

- against -

Adv. Proc. No.: 109-

JOSEPH GENOVA and
CHESTNUT & OAK STREET CORP.,

Defendants.

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Plaintiff, Richard J. McCord, Esq., the Chapter 7 Trustee (the “Trustee”) of the bankruptcy estate of Gordon S. Yeo and Susan J. Yeo, (the “Debtors”), by and through his counsel, Certilman Balin Adler & Hyman, LLP, complaining of the defendants, Joseph Genova and Chestnut & Oak Street Corp. (“Defendants”), respectfully alleges and sets forth to this Court as follows:

JURISDICTION AND PARTIES

1. This action arises under 11 U.S.C. §§541 and 542 and Rules 6009, 7001 and 7008 of the Federal Rules of Bankruptcy Procedure (hereinafter “Bankruptcy Rules”).

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§157 and 1334. The statutory predicate for this proceeding is 11 U.S.C. §§105, 541 and 542 and Bankruptcy Rules 6009, 7001 and 7008, as this action arises in and under the pending Chapter 7 case of the Debtors.

3. This action is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (E) and 28 U.S.C. §1334.

4. Venue is proper in this district pursuant to 28 U.S.C. §1409(a).

5. The Plaintiff is the duly appointed Chapter 7 Trustee pursuant to 11 U.S.C. §704, having been appointed on or about July 9, 2009.

6. That upon information and belief, the Defendant, Joseph Genova, is the president of Chestnut & Oak Street Corp and resides at 6 22nd Street, Jericho, New York 11753.

7. Upon information and belief, Chestnut & Oak Street Corp is a New York corporation with its principal place of business at 621 Chestnut Street, Garden City, New York 11530.

BACKGROUND FACTS

8. On July 9, 2009, (the “Petition Date”), the Debtors filed a voluntary petition for relief pursuant to Chapter 7 of title 11 of the United States Code.

9. At the 341 Meeting of Creditors held on August 12, 2009, the Debtors advised the Trustee that they were owed rental arrears by the tenant of their commercial property located at 621 Chestnut Street, Garden City, New York 11530 (the “Garden City Property”). The Debtors

did disclose this on Schedule B of their bankruptcy petition. Annexed hereto as “Exhibit A” is a copy of said Schedule.

10. Gordon S. Yeo and Joseph Genova, as president of Chestnut & Oak Street Corp., entered into a lease agreement dated December 18, 2007 whereas Chestnut & Oak Street Corp. would have use and occupancy of the whole building located at 621 Chestnut Street, Garden City, New York for its deli and pizza place.

11. Pursuant to the provisions of the lease, the tenant, Chestnut & Oak Street Corp, would have use and occupancy of the premises for term of two years ending on December 31, 2009. Pursuant to the rider to the lease, the tenant was to pay monthly rent in the amount of \$26,000.00 for the period from January 1, 2008 though September 30, 2008 and from October 1, 2008 through December 31, 2009, the tenant was to pay \$27,000.00 per month for the rent. Annexed hereto as “Exhibit B” is a copy of the signed Lease.

12. The Trustee has been advised by the Debtors that the Defendants have failed to pay rental income from March, 2008 through the present. The current amount due and owing by the Defendants, as of the date of the filing, is \$387,000.00.

13. The Trustee sent correspondence to Joseph Genova on August 19, 2009 and September 21, 2009, advising of the Debtors bankruptcy filing and requesting the turnover of the rental income due and owing. The first correspondence was sent via certified mail, which was acknowledged on August 20, 2009. Annexed hereto as “Exhibit C” are copies of said correspondence and the proof of the acknowledgment of the correspondence.

14. To date, the Defendants have failed to cooperate with the Trustee and turn over said funds. That by virtue of the bankruptcy filing, the rental arrears became property of the bankruptcy estate pursuant to Section 541 of the Bankruptcy Code.

**AS AND FOR A FIRST CLAIM FOR RELIEF
AGAINST THE DEFENDANTS**

15. Plaintiff repeats and realleges each and every allegation in paragraphs "1" through "14" as though more fully set forth word for word herein.

16. That by virtue of the foregoing, the Defendants are indebted to the Plaintiff in the sum of \$387,000.00, no part of which has been paid, although due and duly demanded.

17. The aforesaid sum constitutes an interest of the Debtors and property of the estate pursuant to Section 541 of the Bankruptcy Code.

18. That pursuant to Section 542 of the Code, an entity in possession of property of the estate shall deliver to the Trustee and account for such property.

19. That based upon the foregoing, an order and judgment should be entered directing the Defendants to turnover the sum of the rental arrears in the amount of \$387,000.00, plus interest thereon, to the Plaintiff.

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WHEREFORE, Plaintiff prays for a judgment granting the relief against the Defendants as set forth below:

- (a) On the First Cause of Action, in the sum of \$387,000.00, plus interest thereon; and
- (b) For such other, further and different relief as this Court deems just, proper and equitable.

Dated: East Meadow, New York
October 26, 2009

CERTILMAN BALIN ADLER & HYMAN, LLP
Counsel to the Chapter 7 Trustee

By: /s/ Richard J. McCord
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